

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. junya nakamura,
nakamura
Case No. D2022-3984

1. The Parties

The Complainant is Compagnie Générale des Etablissements Michelin, France, represented by Dreyfus & associés, France.

The Respondent is junya nakamura, nakamura, Japan.

2. The Domain Name and Registrar

The Disputed Domain Name <mtmichelin.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 24, 2022. On October 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 25, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent (Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 26, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 27, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2022.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on November 24, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, the largest tire manufacturer in the world is headquartered in Clermont-Ferrand, France and has a presence in 170 countries. The Complainant has 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries, including Japan.

The Complainant launched its Michelin Guide in 1920 in order to help motorists plan their trips. In 1926, the Complainant's Michelin guide began to award stars for fine dining establishments.

The Disputed Domain Name <mtmichelin.com> was registered on July 23, 2022. The Disputed Domain Name is used for a website displaying examples of typical scam sites, giving advice on how to avoid them and displaying various articles in Korean.

On July 28, 2022, the Complainant sent a cease-and-desist letter to the Respondent via the Registrar and online form, asserting its trademark rights and requesting them to transfer the Disputed Domain Name to the Complainant free of charge.

The Complainant is in particular the owner of the following Trademark Registrations:

- United States of America ("U.S.") trademark MICHELIN No. 4126565, filed on January 19, 2011, registered on April 10, 2012, and covering goods and services in classes 36, 37, and 39;
- U.S. Trademark MICHELIN No. 1399361, filed on May 28, 1985, registered on July 1, 1986, duly renewed since then and covering goods and services in classes 16, 25, and 28;
- International Trademark MICHELIN No. 771031, designating among others China, Egypt, Morocco, Russian Federation (the), Singapore, registered on June 11, 2001, duly renewed since then and covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42; and,
- International Trademark MICHELIN No. 1049371, designating among others Albania, Australia, Republic of Korea (the), Russian Federation (the), Singapore, registered on August 25, 2010, duly renewed since then and covering goods in classes 7, 9, and 27.

5. Parties' Contentions

A. Complainant

The Disputed Domain Name is identical or at least confusingly similar to the Complainant's trademark MICHELIN. The Disputed Domain Name reproduces the Complainant's trademark in its entirety which previous panels have considered to be "well-known" or "famous."

The Disputed Domain Name associates the Complainant's trademark to the letters "mt", which can be the abbreviation of "mud terrain". Adding a generic and descriptive term to the Complainant mark doesn't influence the similarity between a trademark and a domain name.

The Respondent is not affiliated with the Complainant in any way nor has he been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said mark. Furthermore, the Respondent has no prior rights or legitimate interests in the Disputed Domain Name. The registration of the MICHELIN trademarks preceded the registration of the Disputed Domain Name for years.

The Disputed Domain Name is so identical to the famous MICHELIN trademark of the Complainant, that the Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the Disputed Domain Name. Indeed, the Disputed Domain Name reproduces entirely the Complainant's trademark MICHELIN with the mere addition of the letters "mt" which is most likely an abbreviation for "mud terrain tyres", directly targeting the Complainant's main field of activity.

Given the Complainant's goodwill and renown worldwide, and the nature of the Disputed Domain Name, which is virtually identical to the Complainant's trademark, it is not possible to conceive a plausible circumstance in which the Respondent could legitimately use the Disputed Domain Name, as it would invariably result in misleading diversion and taking unfair advantage of the Complainant's rights.

The Respondent could simply not have chosen the Disputed Domain Name for any reason other than to deliberately cause confusion amongst Internet users as to its source in order to take unfair advantage of the Complainant's goodwill and reputation, which clearly constitutes bad faith registration.

The Disputed Domain Name resolves to a website related to examples of typical scam sites, giving advice on how to avoid them and displaying various articles in Korean. Such use of the Disputed Domain Name cannot constitute fair use as the Respondent seeks to benefit financially from the Disputed Domain Name by taking advantage of the Complainant's reputation and trademarks.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in the famous MICHELIN trademark globally. The MICHELIN trademark is clearly recognizable in the Disputed Domain Name, and the addition of the term "mt" does not prevent a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name incorporating the globally famous MICHELIN trademark indicates that the Respondent sought to piggyback on the Complainant's mark to drive traffic to the Respondent's website.

After a complainant has made a *prima facie* case, the burden of production shifts to the respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name despite numerous opportunities to do so.

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered decades after the Complainant's MICHELIN trademark had become globally famous. The evidence on the record provided by the Complainant with respect to the extent of use and global fame of its MICHELIN mark, combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent undoubtedly knew of the Complainant's MICHELIN mark, and knew that it had no rights or legitimate interests in the Disputed Domain Name.

The Panel is unable to determine any plausible good faith reason for the Respondent to have registered the Disputed Domain Name containing the entirety of the MICHELIN trademark with the addition of the term "mt".

Further, the use of the Disputed Domain Name by the Respondent is clearly in bad faith. Paragraph 4(b)(iv) states that evidence of bad faith may include a respondent's use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The Complainant has submitted evidence that the Respondent has used the Disputed Domain Name in order to direct visitors to a website which claims to provide information on scam websites which have nothing to do with the Complainant. The Respondent clearly is attempting to use the Complainant's famous MICHELIN trademark in Disputed Domain Name in order to drive traffic to his website.

Additionally, the Respondent engaged in the use of a privacy service to mask its details and while those details were disclosed by the Registrar for purposes of notice of this proceeding, the Respondent seems to have further provided incomplete or false information seeing as the courier was unable to deliver the Center's written communication to the those details, which supports an additional inference of bad faith conduct on part the Respondent.

In the absence of any evidence or explanation from the Respondent, the Panel finds that the only plausible basis for registering and using the Disputed Domain Name has been for illegitimate and bad faith purposes.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name <mtmichelin.com> be transferred to the Complainant

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: December 8, 2022